

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WILLIAM K. SCHMIDT, candidate of the Libertarian Party for the office of Comptroller of the State of New York; SAMUEL SCOTT ERICKSON, a United States citizen and Illinois resident; WILLIAM CODY ANDERSON, as Chair and de facto President and on behalf of the Libertarian Party of New York, an independent body and unincorporated association; and DIANE SARE, candidate of the LaRouche Independent Party for the office of United States Senator from the State of New York,

Civil Action
No. 22-cv-2210-BMC

ORDER TO SHOW CAUSE
FOR PRELIMINARY
INJUNCTION

Plaintiffs,

- against -

PETER S. KOSINSKI, DOUGLAS A. KELLNER, ANDREW J. SPANO, and ANTHONY J. CASALE, in their official capacities as Commissioners of the New York State Board of Elections,

Defendants.

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Upon the declaration of Gary L. Donoyan, Esq., made on the 18th day of April 2022, and upon the copy of the Verified Complaint hereto annexed, it is

ORDERED, that the above-named Defendants show cause before this Court, at Room 8D, United States Court House, Cadman Plaza East in Kings County and State of New York on May 2, 2022, at 2:15pm o'clock in the noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to FRCP Rule 65 enjoining defendants during the pendency of this action from enforcing the challenged provisions and interpretations of New York Election Law against Plaintiffs, including enjoining Defendants from enforcing Election Law §6-140(1)(b) to the extent that it requires independent nominating petitions to contain a certification that the witness is a duly qualified New York voter; and it is further

ORDERED, that service of a copy of this order, together with the papers upon which it is granted, personally or by overnight delivery, upon the Defendants or their counsel, on or before noon ~~o'clock in the~~ noon, April 25, 2022 shall be deemed good and sufficient service thereof.

DATED:
Brooklyn, New York

Digitally signed by Brian M.
Cogan

United States District Judge

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WILLIAM K. SCHMIDT, candidate of the Libertarian Party for the office of Comptroller of the State of New York; SAMUEL SCOTT ERICKSON, a United States citizen and Illinois resident; WILLIAM CODY ANDERSON, as Chair and de facto President and on behalf of the Libertarian Party of New York, an independent body and unincorporated association; and DIANE SARE, candidate of the LaRouche Independent Party for the office of United States Senator from the State of New York,

Civil Action
No. 22-cv-2210-BMC

DECLARATION IN
SUPPORT OF ORDER TO
SHOW CAUSE

Plaintiffs,

- against -

PETER S. KOSINSKI, DOUGLAS A. KELLNER, ANDREW J. SPANO, and ANTHONY J. CASALE, in their official capacities as Commissioners of the New York State Board of Elections,

Defendants.

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Gary L. Donoyan, attorney for Plaintiffs in the above-captioned action, makes the following declaration under the penalties of perjury:

1. Plaintiffs respectfully move this Court to order Defendants to show cause why they should not be enjoined from enforcing the challenged provisions and interpretations of New York Election Law §6-140(1)(b) to the extent that it requires independent nominating petitions to contain a certification that the witness is a duly qualified New York voter, until a final disposition on the merits in the above-entitled action.

2. Plaintiffs are proceeding by order to show cause rather than by notice of motion because unless the preliminary injunction order is also issued, Plaintiffs will suffer immediate and irreparable injury, loss and damage in that they are already preparing to hire paid witnesses, and solicit volunteer witnesses, for their candidates, including Plaintiffs William Schmidt and Diane

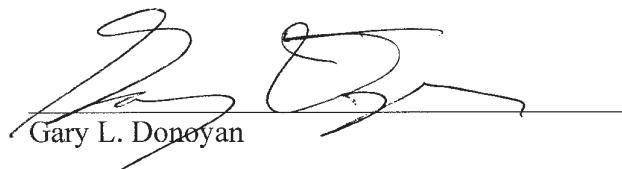
Sare, for the petitioning period which begins April 19, 2022. Without knowing whether non-duly qualified New York voters will be permitted to witness their candidates' petitions, Schmidt and the LPNY and Sare will be hampered in their petitioning efforts, and Plaintiff Erickson (and those similarly situated) will be unable to participate in those petitioning efforts.

3. The harm now being suffered by Plaintiffs will not be cured by any ultimate judgment in this action, because such a judgment would be made too late to affect any of the LPNY's candidates in the 2022 election. As shown in the accompanying memorandum of law, Plaintiffs will most likely obtain a favorable judgment striking down Election Law §6-140(1)(b) as unconstitutional. In the meantime, the harm to Plaintiffs is more serious than any harm Defendants will suffer if the Court signs the preliminary injunction order to protect Plaintiffs.

4. As can be seen from the foregoing, Plaintiffs have no adequate remedy at law. No previous application for similar relief has been made, other than in proceedings terminated in 2020 due to mootness.

WHEREFORE, I respectfully request that the Court grant the within relief, as well as such other and further relief that may be just and proper.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 18, 2022.



Gary L. Donoyan